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HUMAN RIGHTS COMMITTEE

Sixty-ninth session

SUMMARY RECORD OF THE 1847th MEETING

Held at the Palais Wilson, Geneva,
on Friday, 14 July 2000, at 10 a.m.

Chairperson: Ms. MEDINA QUIROGA

later: Ms. EVATT

later: Ms. MEDINA QUIROGA

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 3) (continued)

Second periodic report of Ireland (continued) (CCPR/C/IRL/98/2; CCPR/C/69/L/IRL)

1. Mr. McDowell, Ms. Anderson, Mr. Barrett, Mr. Flahive, Mr. Ingoldsby, Mr. Rowan, Ms. McSweeney, Mr. Hanrahan and Mr. MacAodha resumed their places at the Committee table.

2. The CHAIRPERSON invited Committee members to ask the Irish delegation their final questions.

3. Mr. ANDO thanked the Irish delegation for the frank and detailed answers it had provided thus far and said he wished to obtain several additional clarifications. Ireland had a "dualist" system under which international agreements to which Ireland became a party were not automatically incorporated into domestic law. Paragraph 15 of the report also stated that provisions similar to those of the Covenant were contained in the Constitution. However, since the authorities considered that it would not be appropriate to make provision for fundamental rights, such as those set forth in the Covenant, by means of legislation that would be inferior to existing constitutional provisions, such rights could only be incorporated by constitutional amendment. That course, however, had not been taken. In his view, the "simple" incorporation of the Covenant's provisions in legislation by means of a vote in Parliament would be quite satisfactory, and the argument that the only solution was a constitutional amendment was not convincing. Did the Constitution contain any provisions that prevented Parliament from adopting legislation to enact the Covenant or the courts from invoking the Covenant when interpreting domestic law?

4. He was also concerned by the prohibition of abortion, or rather the plight of women who were the victims of rape, an odious crime that was particularly tragic in Ireland. He wondered whether it was not inhuman to have to choose between giving birth to a child conceived as the result of rape and attempting suicide, which seemed to be the only condition on which a pregnancy could be terminated - in other words when the mother's life was in danger. That situation, which hardly differed from that of prisoners on death row, was tantamount to a violation of article 7 of the Covenant, which prohibited cruel, inhuman or degrading treatment or punishment. He would like to know the delegation's views on that matter.

5. Mr. AMOR commended the quality of Ireland's report and the wealth of information it contained, he was pleased that Ireland attached such importance to education as a means of preventing human rights violations. He, too, spoke of the problems arising from a "dualist" system of implementing the Covenant saying that the Covenant's provisions should be incorporated into domestic law in accordance with the Constitution, in particular article 40, which dealt not with human rights but with the rights of Irish citizens. In the course of history, however, the notion of citizenship had often been a source of exclusion, whether it was based on birth, wealth or culture, and it currently excluded foreigners or non-citizens. Furthermore, when it came to invoking the Covenant before the courts, it was clear that in such a system

only the judge could evaluate how much importance should be given to the provisions of international instruments; the legal impact would thus be limited to whatever the judge wanted it to be.

6. Referring to paragraph 12 of the report, he expressed surprise that civil servants above clerical level were precluded from involvement in political activity. While the notion of neutrality in the civil service was indeed a complex one, would it not have sufficed to place civil servants, as was done in other countries, under a duty of discretion, in other words, requiring them to express their convictions with moderation, without forcing them to remain silent?

7. Lawmakers agreed that the question of abortion, and thus of the beginning of life, was a sensitive one, and the response to it varied from one country to another. It was nevertheless hard to accept that Irish women should have to go abroad to terminate a pregnancy - a situation which in fact excluded all those with insufficient resources - or threaten to kill themselves to be heard. Obviously, a whole process of sociological evolution had yet to start in Ireland, where the influence of the church was undeniable. The country's fervour should not, however, give rise to violations of the Covenant, and especially of women's rights, nor should the church's grip on the State become too strong. In that regard, he wished to know whether medically assisted contraception was authorized. Lastly, in another area entirely, he wished to know how the large difference between the number of persons in custody and the number of prosecutions could be explained, if not by an excessive reliance on that form of pre-trial detention.

8. Mr. LALLAH thanked the delegation for its enriching oral presentation and said he wished to raise a number of matters of concern. First, it appeared to him that the remedies available in cases of human rights violations were not entirely satisfactory; he wanted to know, for example, what remedy was open to someone whose rights under article 40 of the Constitution had been infringed. Given that the Supreme Court could rule on the lawfulness of legislation only at the request of the President and that its judgements could not be appealed to any higher court, what remedy was available to a person judged by a lower court under legislation that that person believed was contrary to human rights? Could that person appeal to the Supreme Court, and who would then bear the costs?

9. He also wished to know why the Irish authorities did not consider amending the Constitution by referendum in order to discharge their obligations under the Covenant fully, including the obligation to provide remedies, at all levels of jurisdiction to the presumed victims of human rights violations. In a country in which education was a priority, the referendum would be an excellent means of heightening the entire population's awareness of the cause of human rights. Had corporal punishment, which had been prohibited in State schools, also been abolished in private schools and in other institutions for children? Were the provisions of articles 24 and 7 of the Covenant fully implemented? With regard to the independence required for judicial proceedings, he wished to know how the Director of Public Prosecutions was appointed, whether he was accountable to the Attorney-General and whether he could at the same time act as legal adviser to the Government. Lastly, was the Attorney-General allowed to belong to a political party?

10. Mr. BHAGWATI, who had also been favourably impressed by the wealth of information provided in the report and in the delegation's oral presentation, wished to know whether the fact

that the fundamental rights set out in the Constitution could be enforced both "horizontally" and "vertically" meant that they could also be enforced against non-State parties. He also asked whether bills had ever been contested before being adopted in their final form. Could the Human Rights Commission investigate violations on its own initiative, even if no complaint had been formally lodged? Did the Committee have its own mechanisms of inquiry? How was its independence guaranteed? He wished to know whether the unenumerated rights mentioned in paragraph 15 of the report, had been defined by the legislature or by the judiciary. He also asked whether minors between the ages of 12 and 18 were tried by juvenile courts. How was the Director of Public Prosecutions appointed, and did he or she decide whether a criminal offence should be tried by an ordinary or a special court? If the Director took that decision alone by virtue of the discretionary powers of that office, did that not constitute a violation of article 26 of the Covenant? Lastly, did judges receive training in human rights?

11. The CHAIRPERSON invited the Irish delegation to answer the Committee members' questions.

12. Mr. McDOWELL (Ireland) thanked the Committee members for their careful consideration of Ireland's second periodic report. First, with regard to the fact that the provisions of the Covenant had still not been incorporated into national legislation, a point of great concern to the Committee, the explanations given in paragraph 13 and subsequent paragraphs of the report were still valid. The Constitution could be amended only by referendum. That procedure might appear complicated, but it amounted to respect for a principle that was at the very heart of Ireland's political and social system: the sovereignty of the people. That was why, for example, Ireland had not been able to ratify the Convention on the Establishment of an International Criminal Court, since the rights of an Irish citizen appearing before that Court to be tried by a jury would be impaired, why the Supreme Court had asked the Government not to ratify the Treaty on the European Union until the Constitution was amended to make the two instruments compatible and, lastly, had the European Convention on Human Rights guaranteed access to abortion, why Ireland would have been unable to ratify it. In a word, if Ireland was a party to the Covenant, it was because the Covenant was in all ways compatible with the Irish Constitution.

13. He drew attention to the pyramid-like aspect of international human rights protection, with the international treaties at the top of the pyramid and their implementation by the States and regions lower down; in the case of Ireland, the Constitution was at the top of the pyramid while the legislative act incorporating the Constitution into domestic law would be inferior to it. Incorporation could therefore take place only by means of an amendment to the Constitution and therefore by referendum.

14. In Ireland, human rights were protected not only by the Constitution, which contained a fairly long list of rights in article 40, paragraph 3, but also by the courts in general, for which other rights stemming from that list, such as the right to privacy, must be defended with equal vigour. Moreover, all institutions were subject to the Constitution, including the Supreme Court and the High Court, and always had to interpret the law in the light of human rights as they were protected by the Constitution. Contrary to what was believed by some, constitutional rights could be invoked at all levels. All the courts and all the machinery of the State had to respect them; they were fully protected horizontally and vertically. For example, an employee had been

able to take his employer to court because the latter had opposed his joining a trade union. In short, while the Covenant might not be incorporated into domestic legislation as it was in other countries, every Irish citizen was directly protected by the Constitution, could invoke it, and the right in question was in fact applied.

15. Committee members had expressed interest in the future Human Rights Commission, including its duties. The Commission would study legislative measures and their compatibility with respect for human rights and would make any recommendation or representation it considered useful for the effective protection of those rights; it could even institute proceedings against anyone who violated human rights and could seek the relief or indemnities provided for by domestic law. The Commission would also be empowered to conduct inquiries, on its own initiative or upon request. As to its composition, the Government had decided, after consultation, to apply the Paris Principles. It could only appoint the members if they were particularly well qualified and it had been ascertained that the Committee's composition broadly reflected the nature of Irish society. The Commission would be independent, and a provisional amount of 600,000 Irish pounds had been allocated for its starting up, which was scheduled for the autumn of the current year.

16. Apparently the report was not sufficiently clear on the procedure for lodging complaints against members of the Garda Síochána (police). A law on the subject did exist, but it was in no way exclusive of other legislation in force in the country. Any citizen could bring proceedings against any police officer if he or she felt wronged by the police, and the members of the Garda were not only subject to disciplinary penalties but could be brought before the courts, including the civil courts, and the latter could order officers to pay damages and even to be tried by a jury. The procedure set out in the Garda Síochána (Complaints) Act merely supplemented existing measures in that area. Although only one trial had been held as a result of complaints invoking the Act, many others had taken place in ordinary courts.

17. The Ministry was currently considering the most recent report submitted to it by the Garda Complaints Board, in which the Board raised the matter of its functioning and made suggestions on reform of the Garda Síochána (Complaints) Act which would make it more effective, more independent and also more visible. That was a proof of objectivity that stood in its favour. He recalled the doubt expressed regarding the Complaint Board's independence and said that, while it was true that one of the members was appointed by the Garda Commissioner, the others were appointed by the Government; at least three of them had to be lawyers with at least 10 years of experience, and the President had to be a lawyer, too.

18. Concerning reform of the Emergency Powers Act, he pointed out that while the Constitution provided that a state of emergency could be declared, the Constitution Review Group had asked that the state of emergency should be limited in time and subject to review after three years. It had also proposed that the state of emergency should not entail any restrictions in the exercise of certain fundamental rights, including those protected by the Covenant. He saw no reason to believe that a referendum on amending the Constitution to that end would meet with strong opposition.

19. The Offences Against the State Act (item 9 on the list of issues) was being reviewed at high level within the framework of the Good Friday Agreement between Ireland and the United Kingdom. The competent organs of the United Nations Office at Geneva and the Council of Europe in Strasbourg had been consulted on the matter.

20. He confirmed that, like all courts, the Special Criminal Court fell under the purview of article 38, paragraph 1, of the Constitution. He further confirmed that an ordinary citizen would be tried by that Court only in the event of war or armed uprising, and that in 1977 the Government had instituted a procedure for periodic reviews of the need to keep it in operation. On each occasion, the reviews had confirmed that need.

21. Some members of the Committee were also concerned at the fact that accused persons were being tried by the Special Criminal Court without a jury. However, while the Covenant did not require States parties to provide for trial by jury, the Irish Constitution did. Trial without jury was therefore to some extent unconstitutional. The Committee should know that such cases were extremely rare and that the Special Criminal Court had tried only 14 such cases. Besides, statistics showed that there was no difference between the number of sentences handed down by that court and those pronounced by ordinary courts. The remedies available against such sentences were currently under study, but the matter was a delicate one, since such an appeal would entail an exhaustive review of the whole case. It was not inconceivable, however, that some proposals might be forthcoming from the Committee dealing with reform of the Offences Against the State Act.

22. As far as some Committee members were concerned, the existence of the Special Criminal Court also infringed the right of all citizens to equality before the law, enshrined in article 40 of the Constitution. It was Ireland's specific situation that accounted for trials without jury. A jury could in fact be exposed to unbearable pressures, and the circumstances were sometimes such that the only way of ensuring the safety of threatened jurors was by resorting to that Court. Indeed, in certain cases, those involved in a trial - judges, jurors, witnesses and even forensic doctors - had every reason to fear for their lives. When a jury had to decide on the guilt or innocence of a party, it had to do so unanimously, without any of its members having to justify his or her decision. Thus a paramilitary group, for example, needed to threaten only one or two jurors to attain its ends. If the equality of all before the law was to be strictly guaranteed and implemented, the jury would then have to be eliminated in all cases, which would be tantamount to throwing out the baby with the bath water.

23. He reassured the Committee as to the situation of the female inmates at the Limerick prison. That facility was to be rebuilt to meet the strictest standards.

24. With regard to the use of force by police officers, and in particular the use of firearms, such cases were rare and occurred in critical situations. The principles governing the use of firearms by police officers were set out in the report, and the police were generally not armed. Recently, however, one person, Mr. Carthy, had been killed during an exchange of gunfire with the police at his home. An investigation had been carried out by the Garda Síochána and the report had been transmitted to the Minister of Justice, Equality and Law Reform and to the Director of Public Prosecutions. A parliamentary debate had taken place on the case and the Minister had pledged to make the report's conclusions public; the report would also be

considered by a parliamentary committee. The Minister had also said that an independent body could be asked to conduct an investigation if the circumstances so warranted. Generally speaking, apart from the Garda Complaints Board, private citizens could also turn to the civil and criminal courts if they felt that a police officer's behaviour was contrary to the law. In cases of death associated with the use of force by police, a judicial inquiry was opened; the law and practice in that sphere, currently under review, would have to be further improved in the future. Then the criticisms that had been made by certain non-governmental organizations of holding a coroner's inquest after a violent death would be taken duly into account, and the Government would seek to ensure that the gaps and shortcomings in that procedure were rectified as quickly as possible.

25. Concerning the rights of persons in police custody, it should be noted that the arrangements for legal assistance were under review, and there were plans to pay the lawyers who assisted persons in police custody under those arrangements.

26. One Committee member had wondered whether the rights set out in the Constitution were being applied equally to Irish citizens and other residents of Ireland. Even though not expressly written into the Constitution, the High Court and the Supreme Court had extended most individual rights to the entire population, including the right to use the remedy of habeas corpus. It was true that the right to vote and the right to participate in elections and referendums were reserved for Irish citizens, but other members of the population could participate in local elections as well as elections to the European Parliament. As for the national Parliament, under the specific arrangements made with the United Kingdom, citizens of the United Kingdom were entitled to take part in parliamentary elections in Ireland.

27. On the matter of imprisonment for debts, he drew attention to paragraph 193 of the report and said that, in any event, the number of persons imprisoned for defaulting on debts accounted for less than 1 per cent of the prison population. A question had been asked about alternatives to imprisonment. He wished to assure the Committee that imprisonment was far from being the only measure advocated by the authorities, whether it be the lawmakers, the police or the courts. Other types of punishment were being applied wherever possible, especially in cases involving minors.

28. As for the question of abortion, and specifically in the case of rape victims, the law was very clear on the matter: the right of every person to move about freely, and specifically to leave Ireland - including to have an abortion abroad - was not limited by the right to life, which was also guaranteed under the Constitution. The Government's 1999 Green Paper removed all doubt in that regard. Furthermore, a woman who sought asylum in Ireland could not be prevented from leaving the country because she was going abroad to have an abortion. In general, no asylum-seeker could be prevented from leaving Irish territory.

29. The law prohibited corporal punishment in all educational institutions, whether public or private. Within the home, the right of parents to mete out corporal punishment was a controversial issue, although there was no doubt that cruel punishment would be unconstitutional and as such illegal.

30. Until 1974, the functions of the Director of Public Prosecutions had been discharged by the Attorney-General. Since then, a new law had been passed whereby the Director of Public Prosecutions was appointed by the Government for life on the recommendation of a panel of experienced judges. The incumbent could be dismissed from office only by reason of serious misconduct. The Director of Public Prosecutions discharged his or her functions in full independence of the Government and the Attorney-General. Although the latter was authorized to discharge certain public-law functions with full independence, his functions were largely political, as his mandate could be revoked at any time by the Prime Minister. A question had been asked about the training of magistrates, and his delegation had requested the secretariat to distribute written information on the subject to the Committee.

31. In vitro-fertilization and medically-assisted contraception in general were perfectly legal, regardless of the opinion of the Catholic Church on those issues.

32. Mr. KRETZMER observed that many questions that had been asked remained unanswered, in particular those regarding the detention of asylum-seekers, the transparency of procedures involving the Garda Complaints Board (specifically, whether the Board was required to justify its rejection of a complaint and whether the plaintiff had access to the case file) and the laws governing the expulsion of asylum-seekers to another country where their lives would be in danger or they might face torture.

33. Mr. McDOWELL (Ireland) said that all decisions regarding expulsion had to comply with the Refugee Act, 1996, under which Ireland was obliged to observe article 33 (Prohibition of expulsion or return ("refoulement")) of the 1951 Convention relating to the Status of Refugees, as well as the Criminal Justice Act, which prohibited the expulsion of persons to a country where they might face torture. In practice, the Irish authorities refrained from making expulsions to countries where the political situation was too unstable to provide sufficient guarantees that human rights would be respected. In any case, the expulsion of an asylum-seeker came only at the end of a lengthy procedure during which the party concerned enjoyed the benefit of legal assistance and interpretation services and was given a fair hearing by an immigration officer. A decision of expulsion could be contested in an appellate court, that court's decision would be reviewed by the competent minister, who ultimately had the discretion to oppose the expulsion. Thus a great many guarantees accompanied that measure, including the right to file a *habeas corpus* appeal with the High Court.

34. On the matter of the detention of asylum-seekers, he said that the new law, which was scheduled to take effect soon, provided that an asylum-seeker could be placed in detention if the authorities had reasonable cause to suspect that that individual posed a threat to national security or public order, had committed a serious crime, had not made reasonable efforts to establish his or her true identity, had intended to enter the United Kingdom illegally, had destroyed his or her identity or travel documents without reasonable cause, or was in possession of forged identity documents. A person detained on any of those grounds was brought to trial as soon as possible, and the court had 10 days in which to decide between further detention or release. It should also be noted that persons entering Ireland to seek asylum were not automatically sent to detention centres.

35. As to the procedure for dealing with the Garda Complaints Board, the Board was not required to justify its decisions, but that could change. In any case, plaintiffs were guaranteed the right to judicial review of the decision and, like all agencies discharging public-law functions, the Garda Complaints Bureau had to communicate the grounds for its ruling to the High Court in the event of an appeal to that body.

36. The CHAIRPERSON invited the Irish delegation to answer questions 12 to 21 of the list of issues (CCPR/C/69/L/IRL).

37. Mr. McDOWELL (Ireland), replying to question 12, said that the new Employment Equality Act marked real progress over the 1977 law of the same name because it required employers actively to promote equality among men and women. The new law provided for the creation of an Agency to promote equality which would conduct studies and prepare action plans designed to increase awareness on the part of management and labour concerning the need to ensure equality in employment. At the same time, a partnership had been established between the Government, employers, trade unions and other economic entities, under which three-year agreements would concluded in the light of broad economic and social guidelines for promoting equal opportunity and equality between men and women in employment.

38. Turning to political life, he said that after Mrs. Robinson, currently the United Nations High Commissioner for Human Rights, Ireland had for the second time elected a woman to the highest office in the land. In addition, 3 of the 15 Ministers of State in the Government, including the Deputy Prime Minister were women, and 3 of the 17 Deputy Ministers were women; women also accounted for 34 per cent of all candidates for ministerial posts. Ireland had 11 women senators out of 60 and 22 of the 66 members of the National Parliament were women, as were 5 of the 15 Irish members of the European Parliament. There were currently 18 women judges (as against 6 in 1996), accounting for almost 17 per cent of all judges, and 2 of the 8 Supreme Court judges were women. The Government's policy of balancing the representation of both sexes in State bodies had made it possible to increase the proportion of women from 15 per cent in 1993 to the current 29 per cent. In addition, some Irish women held posts in international judicial bodies, and the first woman judge at the International Court of Justice since its creation was an Irish woman. As to the appointment of judges to the national courts, recruitment did not take place among young law school graduates; instead, judges were chosen from among experienced jurists who were often over 50 years of age. There again, the State's policy of promoting equality between men and women should make it possible to increase the representation of women. Women accounted for 44 per cent of all lawyers called to the Bar and 39 per cent of all other lawyers, judicial attorneys and officers of the court. In the police force, women were less well represented (10 per cent), but given the results of entrance examinations to that force, their representation should increase markedly in the future. Lastly, the distribution of women among university graduates was 43 per cent in architecture, 57 per cent in law, 54 per cent in business studies and 48 per cent in veterinary medicine. While a mere 14.5 per cent of engineering graduates were women, the figure stood

at 66 per cent for the medical and paramedical professions. It should also be noted that a range of steps had been taken to help women discharge their parliamentary functions, including the provision of child-care facilities.

39. In reply to question 13, he said that the Equal Status Bill that had been passed by the Government on 26 April 2000 would take effect in October 2000. Taken with the Employment Equality Act, that text should enable Ireland to ratify the International Convention on the Elimination of All Forms of Racial Discrimination by the end of the year. He also drew attention to the texts prohibiting discrimination in employment, which were listed in paragraph 72 of the report.

40. Addressing concerns over restrictions on the political activities of civil servants, he acknowledged that the principle behind such restrictions was open to discussion, but it stemmed from a very important Irish tradition whereby civil servants of a certain level were bound to refrain from expressing their political opinions and could not be associated with any particular political movement or party in power. The situation was different, however, when it came to local authorities, as paragraph 343 of the report indicated. On the whole, the authorities were fairly satisfied with the experience of civil servant neutrality to date.

41. In response to question 14, he said that much progress had been made in applying the recommendations of the Task Force on Violence Against Women. A national steering committee and eight regional committees had been appointed. The authorities had launched an awareness-raising campaign and had distributed a brochure with information intended for women throughout the country. At the same time, advisory services had been established, and the national steering committee was planning to set up a telephone hotline to assist women victims of violence. In addition, voluntary organizations dealing with those problems received considerable assistance from the Government and, since 1997, the Department of Health and Children had doubled its allocations for service-providers in that area. Furthermore, the Sexual Offences (Jurisdiction) Act, which had been circulated to the members of the Committee, would ensure that sexual offenders were subject to monitoring after their release from prison in order to minimize the risk of recidivism. Lastly, the Domestic Violence Act of 1996 applied to all couples living together, whether married or not.

42. The Children Bill (item 15 on the list of issues) was currently under study by a Senate Committee. Among other things, the Bill stipulated that the age of criminal responsibility should be set at 12 years and that all young people between the ages of 12 and 18 years should be dealt with by the juvenile justice system. Prevention programmes involving families were to be set up, and health centres would create special care units to provide appropriate care, education and treatment to young people who were considered to be "out of control" even though they had not committed any offences. The diversion programme operated by the Garda Síochána had been formalized and provided for the involvement of family members. A procedure involving family members and supervised by a court had also been instituted, and a juvenile court would hear all cases involving minors. Judges could apply a wide range of new community penalties other than imprisonment to young offenders. He concluded by drawing attention to paragraphs 319 (e) and (f) of the report.

43. In connection with the Sexual Offences (Jurisdiction) Act, his delegation would provide the Committee with statistics on acts of violence against children at a later date. It should be noted, however, that the Child Pornography Bill mentioned in paragraph 326 of the report had been adopted, and the penalties it set out went as far as life imprisonment. About a dozen criminal actions were under way for illegal possession of child pornography, and sentences had already been handed down in three of those cases. On the whole, enactment of the law had made it possible to combat child exploitation and child pornography more effectively. The Sexual Offences (Jurisdiction) Act, 1996, which sought to prevent sex tourism and the exploitation of children abroad, had already led to rulings in two cases. In addition to that legislation, the authorities were implementing a national children strategy, under which a mechanism would be established to allow children to exercise their rights in accordance with the Convention on the Rights of the Child. It was expected that a bill providing for the appointment of a children's ombudsman would be tabled before the end of the year.

44. In reply to question 16, he said that discrimination based on sexual preference had been forbidden by law since 1993 and that sexual relations between consenting adults, whether of the same sex or not, were not subject to prohibition of any kind. In fact, female homosexuality had never been a criminal offence in Ireland, and legislation forbidding sexual relations between consenting male adults had been repealed in 1993. The legal age of sexual maturity was the same for men and women, whether for homosexual or heterosexual relations. The Equality Authority had created an advisory committee to deal with questions of interest to female and male homosexuals and to bisexual persons. No cases of the adoption of children by homosexual couples, had been registered to date in Ireland. Lastly, Irish inheritance law had been considered to be discriminatory towards homosexual and unmarried couples, and had therefore been amended in 1999 so as to treat married couples and persons living together equally.

45. In practice, article 40.6.1 (i) of the Constitution dealt only with pornography. In principle, it also addressed blasphemy, but in the absence of a legal definition of that offence and in the light of changing values and the proliferation of religious confessions in Ireland, the Supreme Court had found that provision difficult to apply. As to action on the proposals to amend the declaration required of judges, he said that opinions were still sharply divided on the matter and that, despite extensive discussions based mainly on the Committee's concluding observations, no consensus had as yet emerged.

46. Turning to question 19 of the list of issues, he said that the State was required by the Constitution to support religious instruction when the parents of pupils wanted such instruction to be given. That obligation applied to all confessions. Given that situation and the growing number of adherents of Islam living in the country, the State was providing substantial support, chiefly financial, to Islamic schools. Unlike other States, however, Ireland had adopted no measures with regard to new religious movements such as Scientology, as they had thus far not been the subject of any controversy in the country.

47. A range of measures had been adopted to combat the marginalization to which the Travelling Community was traditionally subjected, despite the fact that discrimination based on

membership of that Community was prohibited under the Constitution. To mention but a few of those measures, a Task Force on the Travelling Community had been created, the State had given its support to a Travellers organization and new laws had been enacted, one of which required towns to implement welcome programmes for Travellers. Another law guaranteed Travellers equal access to establishments such as hotels and pubs. That law had been applied with great stringency, and since establishments suspected of practising discrimination risked losing their licence, the situation in that sphere had improved considerably. As explained in paragraph 356 of the report, Travellers could register as electors. It was true that they still faced certain practical difficulties in registering, but steps would be taken to encourage them to do so. Bearing in mind the high level of illiteracy within that Community, it had also been decided, in order to facilitate the task of voting, that all ballots must show the party emblem and a photograph of the candidate.

48. He concluded by saying that after it had been considered, the previous report had been transmitted to all public bodies and to many schools, universities and non-governmental organizations (NGOs) and had been placed on the Ministry of Foreign Affairs Web site. The Committee's concluding observations had also been circulated to all public bodies, and in June 1999 a forum on monitoring the implementation of the treaties had been held and had been attended by some 100 NGOs.

49. Ms. Evatt took the Chair.

50. Mr. WIERUSZEWSKI welcomed the seriousness with which Ireland was complying with its international obligations. It had always been an example to other countries in that regard, and it had been yet again when it had recently condemned the initiative by Trinidad and Tobago regarding the Optional Protocol. He had been deeply impressed by the measures described by the Irish delegation, particularly those pertaining to equality between men and women. He encouraged the Irish Government to press ahead in that direction and, in particular, to eliminate or amend articles 41.2.1 and 41.2.2 of the Constitution. He pointed out in that connection that, according to information supplied by NGOs, and contrary to the statements made by the delegation, the real comparator was apparently still being used to justify wage differences between men and women.

51. The enactment of a new privacy law in Ireland had been considered on several occasions. Could the delegation say whether such a bill might materialize soon and, if so, what would its main thrust be? Given that paragraph 247 of the report stated that the old Broadcasting Authority Act had empowered the Minister for Arts, Heritage, Gaeltacht and the Islands to direct Radio Telefís Éireann (RTÉ) to refrain from broadcasting certain types of matter, he wondered whether that would also be the case under the new law. Staying in the area of the right to freedom of expression, he asked whether there were plans to remove seditious blasphemy and blasphemous libel from the list of common-law offences, to review the defamation law which he felt excessively restricted the freedom of action of journalists, or to review the Freedom of Information Act, which had been criticized by several members of the Government. He had been surprised to read in paragraph 258 of the report that there had been no prosecutions under

the 1989 Prohibition of Incitement to Hatred Act, he wondered whether that was a welcome development or an indication that its provisions did not guarantee adequate protection. Lastly, he pointed out that the large number of immigrants abusing their refugee status in Ireland was largely due to loopholes in domestic legislation, and he asked whether there were plans to pass a real immigration law.

52. Ms. Medina Quiroga resumed the Chair.

53. Lord COLVILLE recalled that under article 17 of the Covenant, there should be neither arbitrary nor unlawful interference with anyone's correspondence. He asked whether those two situations were being considered and monitored by the judge of the High Court referred to in paragraph 223 (a) of the report. In connection with paragraph 223 (b), he requested information on the procedures for filing a complaint, the number of complaints so filed and the action taken on them.

54. He was especially concerned at the situation of the Travelling Community and drew the Irish delegation's attention to the preamble to the Covenant, which stated that "... the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant". Indeed, it was his belief that the best way of remedying the dysfunctions afflicting the Travelling Community was to involve them in the process and empower them. To the best of his knowledge, the Task Force on the Travelling Community included two members from that Community. However, it was his impression, that in general the Travelling Community was not being sufficiently encouraged to become involved in decisions that affected it. He called upon the Irish Government to consider that approach and to give an account in its next report on the progress made.

55. Mr. HENKIN asked how Ireland reconciled its obligations under the Covenant with regard to non-discrimination with its obligation to accord special rights to citizens of the European Union.

56. Mr. ANDO wanted to know more about the Censorship of Publications Board mentioned in paragraph 248 of the report. What was its make-up? Who appointed its members? Could its decisions be challenged at law? He also wished to know how article 40.6.1 (i) of the Constitution, mentioned in paragraph 253 of the report, was actually being applied. Lastly, turning to paragraphs 254 and 256, he wished to know exactly what the expressions "public bodies" and "which will be offensive to some" referred to.

57. Ms. EVATT asked what the real consequences of article 11 (c) I of the Aliens Order 1946, mentioned in paragraph 104 of the report, were and wondered whether it was a discriminatory provision. With regard to the problem of violence against women, she wished to underscore the importance of education and training, including for the police force and magistrates. She also had concerns about several legal provisions. For example, she wondered to what extent the rules requiring asylum-seekers to be distributed throughout the territory were

consistent with article 12.3 of the Covenant; to what extent the bill on asylum-seekers might restrict their access to the courts, in violation of article 9, paragraphs 1 to 4, of the Covenant; and to what extent the more favourable treatment given by some church-run religious, educational or medical establishments to persons of the same faith was consistent with article 26 of the Covenant. Finally, on the subject of disabled persons, while she welcomed the enactment of a new law on institutions, it was her understanding that there were limits to employers' obligation to adapt the workplace to accommodate the disabled, and she wished to know to what extent that was so.

58. Mr. AMOR drew attention to the statement in paragraph 228 of the report that the Education Bill recognized the right of schools to maintain their own distinctive "characteristic spirit" and asked how the State ensured that teaching did not become indoctrination in private schools, and in religious schools in particular.

The meeting rose at 1.05 p.m.